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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,990	12/31/2001	Herbert M. Reynolds	1335.00008	4532
27305	7590	10/20/2003	EXAMINER	
HOWARD & HOWARD ATTORNEYS, P.C. THE PINEHURST OFFICE CENTER, SUITE #101 39400 WOODWARD AVENUE BLOOMFIELD HILLS, MI 48304-5151				RAEVIS, ROBERT R
ART UNIT		PAPER NUMBER		
2856				

DATE MAILED: 10/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/035,990	REYNOLDS ET AL.
	Examiner Robert R. Raevs	Art Unit 2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on \_\_\_\_\_.  
 2a) This action is FINAL.                  2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-59 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_ is/are allowed.  
 6) Claim(s) 1-9, 11-15, 32, 37, 40-52 and 57-59 is/are rejected.  
 7) Claim(s) 10, 16-31, 33-36, 38, 39 and 53-56 is/are objected to.  
 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.  
     If approved, corrected drawings are required in reply to this Office action.  
 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
     \* See the attached detailed Office action for a list of the certified copies not received.  
 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
     a) The translation of the foreign language provisional application has been received.  
 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____. 
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5</u> .	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

Claims 1-8, 40-50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 40, lines 1-7 suggest a plurality of different design templates, yet lines 8-13 use the phrase “*each design template*” (italics added, line 11) suggestive that (somehow) the method claim is limited to include all of the alternatives on lines 8-13. Is this the case; or does “*each design template*” refer back to the different alternatives in an *alternative* manner? Should “*each design template*” read –the provided design template--?

As to claim 1, what does the “cross-sectional section” refer to in the disclosure? Is it a section of the “torso section”, suggestive that the same structure is claimed twice? If so, the template is directed to a “section” (line 5) only, and thus it is unclear what the “torso section” is a section of.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 8, 9, 11-15, 37, 51, 52, 57-59 are rejected under 35 U.S.C. 102(a,b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ekern et al ("Kinetic Computer Modeling of Human Posture in Automotive Seats").

Ekern et al describe (pp. 125-126) a 3D testing manikin in "slumped" posture for seat development and evaluation within an automobile that includes restraint positioning. The manikin includes (Figure 2) a torso section and other sections (legs).

Ekern does not distinguish between large male, medium male or small female; and does not refer to an anatomical landmark.

As to claims 1, 8, 9, 11, 15, 37, 51, Ekern's reference to an "average size" (p. 126) male suggests a medium male. Also, the legs would seem to provide an anatomical landmark relative to the torso, but if not, it would have been obvious to employ the feet as a landmark to assure that the legs are in proper position when placing the manikin in a automobile for testing.

As to claims 2, 3, note the shape of the lower back in Figure 2.

As to claim 9, Ekern is directed to use in "restraint positioning", and automotive restraints are suggestive of both lap and shoulder belts.

As to claims 11, 12, 13, 14, the test manikin usage suggests placing it in a position that many people employ when driving their vehicle.

As to claims 51, 52, 57-59, Ekern's seats suggest any known automotive seat for placing the manikin thereon. See Figure 8.

Claims 1-3, 6, 7, 11-15, 32, 37, 51, 52, 57-59 are rejected under 35 U.S.C. 102(b) as being anticipated by Kaptur, Jr. et al.

Kaptur, Jr.'s template is used to check a seat within a vehicle, the template being of average size (see col. 2, line 4), and inherently employing a posture (see Figure 1). The template employs indicia to provide for measurements.

Claims 10, 16-31, 33-36, 38, 39, 53-56 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert R. Raevis whose telephone number is 703-305-4919. The examiner can normally be reached on Monday to Friday from 6:30am to 4:00pm. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Raevis

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